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7 **UNITED STATES DISTRICT COURT**

8 **DISTRICT OF NEVADA**

9 HARPREET SINGH,

10 Plaintiff,

11 v.

12 ROOP SINGH and DHALIWAL, INC.,

13 Defendants.

Case No. 3:21-cv-00094-HDM-WGC

ORDER

14 Before the court is the defendants' motion to dismiss (ECF
15 No. 11). The plaintiff has opposed or, in the alternative, moved
16 to strike the motion to dismiss (ECF No. 16). The defendants have
17 filed a reply (ECF No. 24).

18 The complaint in this action alleges several causes of action,
19 including a federal claim of human trafficking/peonage in
20 violation of 18 U.S.C. §§ 1589 and 1592 and several state law
21 claims. The complaint claims this court has jurisdiction on the
22 grounds of both diversity and federal question jurisdiction. The
23 defendants now move to dismiss the complaint for lack of
24 jurisdiction and failure to state a claim. The defendants first
25 assert that diversity jurisdiction does not exist because,
26 assuming as true their version of events, the amount in controversy
27 cannot be met. Next, the defendants assert that although the
28 federal human trafficking claim would otherwise provide the court

1 with subject matter jurisdiction, that claim is insufficiently
2 pled. The court addresses first the human trafficking claim.

3 Under § 1589, it is unlawful to

4 knowingly provide[] or obtain[] the labor or services of
5 a person by any one of, or by any combination of, the
6 following means—(1) by means of force, threats of force,
7 physical restraint, or threats of physical restraint to
8 that person or another person; (2) by means of serious
9 harm or threats of serious harm to that person or another
10 person; (3) by means of the abuse or threatened abuse of
11 law or legal process; or (4) by means of any scheme,
12 plan, or pattern intended to cause the person to believe
13 that, if that person did not perform such labor or
14 services, that person or another person would suffer
15 serious harm or physical restraint.

16 A defendant “is guilty of forced labor if he intends to cause a
17 person in his employ to believe that if she does not continue to
18 work, she will suffer the type of serious harm—physical or
19 nonphysical, including psychological, financial, reputation harm—
20 that would compel someone in her circumstances to continue working
21 to avoid that harm.” *United States v. Dann*, 652 F.3d 1160, 1169–
22 70 (9th Cir. 2011). A violation of § 1589 requires two things: (1)
23 the threat of harm must be serious – that is, “the threat,
24 considered from the vantage point of a reasonable person in the
25 place of the victim, must be ‘sufficiently serious’ to compel that
26 person to remain”; and (2) there must be scienter – that is, “the
27 employer intended the victim to believe that such harm would befall
28 her” if she did not continue to work. *Id.* Both of these elements
must be alleged in the complaint to sufficiently state a § 1589
violation. See *Mallela v. Cogent Infotech Corp.*, 2020 WL 2541860,
at *4 (W.D. Pa. 2020) (unpublished disposition).

Section 1592 makes it unlawful to

knowingly destroy[], conceal[], remove[], confiscate[],
or possess[] any actual or purported passport or other

1 immigration document, or any other actual or purported
2 government identification document, of another person--
3 (1) in the course of a violation of [§ 1589] . . . ; (2)
4 with intent to violate [§ 1589] . . . ; or (3) to prevent
5 or restrict or to attempt to prevent or restrict, without
6 lawful authority, the person's liberty to move or
7 travel, in order to maintain the labor or services of
8 that person, when the person is or has been a victim of
9 a severe form of trafficking in persons, as defined in
10 section 103 of the Trafficking Victims Protection Act of
11 2000. . . .

12 A violation of § 1592, referred to as "document servitude,"
13 also requires the defendant to have acted knowingly, *i.e.*, the
14 defendant must have intended to obtain the plaintiff's forced labor
15 by the withholding of the documents. *Dann*, 652 F.3d at 1173.

16 The defendants assert that the plaintiff has not alleged they
17 intentionally violated the relevant statutes. The defendants also
18 argue that no plausible claim of human trafficking has been pled.

19 The complaint alleges that the defendants obtained the
20 plaintiff's labor "by a combination of force, threats of force
21 (including the threat, implicit or explicit, to use a firearm),
22 threats of deportation, mental abuse and isolation, [and] the
23 withholding of [his immigration] documents. . . ." (Compl. 3). It
24 further asserts the "[d]efendants knowingly, or with reckless
25 disregard, derived financial benefit from plaintiff's labor, which
26 . . . was obtained through a combination of force, intimidation,
27 threats of serious harm, physical abuse, and the withholding of
28 plaintiff's immigration documents in conjunction with threats of
deportation." (*Id.*) The complaint later specifies that Roop Singh
"beat plaintiff; threatened plaintiff with a gun; refused
plaintiff access to his immigration documents . . . ; isolated
plaintiff; forced plaintiff to work excessive hours; and otherwise
physically and psychologically intimidated and terrorized

1 plaintiff - to the point at which plaintiff's ability to function
2 as a rational and healthy person was markedly diminished." (*Id.* at
3 4). It also later alleges that at least twice, Roop Singh
4 repeatedly struck "plaintiff in a violent manner for the purpose
5 of punishing plaintiff and/or terrorizing plaintiff, i.e., so as
6 to maintain and enhance his ability to control plaintiff," on "a
7 number of occasions . . . caused plaintiff to apprehend he was
8 about to be struck," and on "several occasions . . . threatened
9 plaintiff with a firearm." (Compl. 5).

10 The complaint sufficiently alleges serious harm - that is,
11 threats or actions that, "considered from the vantage point of a
12 reasonable person in the place of the victim, [were] 'sufficiently
13 serious' to compel that person to remain" working for the
14 defendant. The defendants do not in fact dispute that serious harm
15 has been alleged. Rather, the defendants argue that the plaintiff's
16 version of events is simply not true and that under the facts as
17 they actually were, the plaintiff cannot state a human trafficking
18 claim. A factual argument such as this, however, is not
19 appropriately resolved on a motion to dismiss and is not a proper
20 basis for dismissal of the claim.

21 As to scienter, the court concludes that this element has
22 been sufficiently alleged. The complaint asserts that the
23 defendants acted knowingly in order to control the plaintiff and
24 obtain his free or underpaid labor. Accordingly, the complaint
25 sufficiently sets forth claim of violation of 18 U.S.C. § 1589 and
26 § 1592.

27 The remainder of the defendants' arguments, with respect to
28 both the human trafficking/peonage claim and the amount in

1 controversy, depend on disputed facts that are not appropriately
2 resolved on a motion to dismiss.

3 In accordance with the foregoing, the motion to dismiss (ECF
4 No. 11) is hereby DENIED WITHOUT PREJUDICE to renew at the close
5 of discovery as a motion for summary judgment. The plaintiff's
6 motion to strike the motion to dismiss (ECF No. 16) is therefore
7 DENIED AS MOOT.

8 IT IS SO ORDERED.

9 DATED: this 11th day of August, 2021.

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UNITED STATES DISTRICT JUDGE
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